APPENDIX A.

Law Approved March 10, 1904.

AN ACT

To Define and Punish Simple Assault, Simple Assault and Battery, Aggravated Assault and Aggravated Assault and Battery, and to Repeal Section 237 of the Penal Code.

Be it enacted by the Legislative Assembly of Porto Rico:

SECTION 1. The use of any unlawful violence upon the person of another with intent to injure him, whatever be the means or the degree of violence used, is an assault and battery. Any attempt to commit a battery, or any threatening gesture showing in itself an immediate intention, coupled with an ability to commit a battery, is an assault.

SECTION 2. Violence used to the person does not amount to an assault or an assault and battery in the following cases:

1. In the exercise of the right of moderate restraint or correction given by law to the parents over the child, the guardian over the ward, the master over his apprentice, whenever the former be authorized by the father or guardian of the latter so to do;

2. For the preservation of order in a meeting for religious or other lawful purposes, in case of obstinate resistance to the person charged with the preservation of order;

3. The preservation of peace, or to prevent commission of offenses;

4. In preventing or interrupting an intrusion upon the lawful possession of property against the will of the owner or person in charge thereof;

5. In making a lawful arrest and detaining the party arrested, in obedience to the lawful orders of a magistrate or court, and in overcoming resistance to such lawful order;

6. In self-defense or in defense of another against unlawful violence offered to his person or property.

SECTION 3. In all cases mentioned in the preceding section, when violence is permitted to effect a lawful purpose, only that degree of force must be used which is necessary to effect such purpose.

SECTION 4. No verbal provocation justifies an assault and battery, but insulting and abusive words may be given in evidence in mitigation of the punishment affixed to the offense.

SECTION 5. The punishment for a simple assault, or for assault and battery unattended with circumstances of aggravation, shall be a fine of not less than one nor more than fifty dollars.

SECTION 6. An assault and battery becomes aggravated when committed under any of the following circumstances:

1. When committed upon an officer in the lawful discharge of the duties of his office, if it was known or declared to the offender that the person assaulted was an officer discharging an official duty.

2. When committed in a court of justice, or in any place of religious worship, or in any place where persons are assembled for the purpose of innocent amusement;

3. When the person committing the offense goes into the house of a private family and is there guilty of an assault and battery;

4. When committed by a person of robust health or strength upon one who is aged and decrepit;

5. When committed by an adult male upon the person of a female or child, by an adult female upon the person of a child.

6. When the instrument or means used is such as inflicts disgrace upon the person assaulted, as an assault or battery with a whip, cowhide or cane;

7. When a serious bodily injury is inflicted upon the person assaulted;

8. When committed with deadly weapons under circumstances not amounting to an intent to kill or maim;

9. When committed with premeditated design, and by the use of means calculated to inflict great bodily injury;

10. When committed by any person or persons in disguise.

SECTION 7. The circumstances of aggravation mentioned in the preceding section are of different degrees, and the court is to consider these circumstances in forming the judgment and for assessing the punishment.

SECTION 8. The punishment for an aggravated assault, or aggravated assault and battery, shall be a fine of not less than fifty nor more than one thousand dollars, or imprisonment in jail not less than one month nor more than two years, or by both such fine and imprisonment.

SECTION 9. Section 237 of the Penal Code is hereby repealed.

SECTION 10. All laws, orders and decrees, or parts thereof, in conflict with this Act, are hereby repealed.

SECTION 11. This Act shall take effect from and after its passage.

(4552)